

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DALE GILES,

Defendant.

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Case No. 8:06CR116

ORDER

This matter is before the court on the defendant's Application for Rehearing on Detention [103]. The application is denied.

The proposed release of the defendant fails to address the court's concerns as set out in the May 1, 2006 Detention Order [14]. The plan of release does not adequately address the defendant's significant prior criminal history, which includes a conviction for possession with intent to distribute crack (felony), admitted violations of supervised release, two prior convictions for possession of marijuana, or his 28 positive drug tests between June 12, 1997 and April 18, 1999.

In denying the motion I have also considered the argument that, "the United States of America, through the United States Attorney failed to meet its burden establishing that Dale Giles is a danger to the community." This statement, however, does not reflect the law. The defendant is charged in an April 20, 2006 indictment [1] with conspiracy with intent to distribute marijuana, carrying a possible maximum penalty of life imprisonment and triggering a presumption of detention under 18 U.S.C. § 3142(e). Because the information presented in the application fails to rebut the presumption, I find the defendant should remain detained.

IT IS ORDERED:

1. Defendant's Application for Rehearing on Detention [103] is denied.

Dated this 15th day of August 2006.

BY THE COURT:

S/ F. A. Gossett
United States Magistrate Judge